

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "AIR POLLUTANTS" UNDER THE CLEAN AIR ACT OF MONTANA TO INCLUDE CARBON DIOXIDE; REQUIRING THE BOARD OF ENVIRONMENTAL REVIEW TO ESTABLISH CARBON DIOXIDE EMISSION LEVELS; AMENDING SECTIONS 75-2-103 AND 75-2-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-2-103, MCA, is amended to read:

"75-2-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advisory council" means the air pollution control advisory council provided for in 2-15-2106.

(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

(3) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere, including carbon dioxide and those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42 U.S.C. 7401, et seq.

(4) "Air pollution" means the presence of air pollutants in a quantity and for a duration that are or tend to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere with the enjoyment of life, property, or the conduct of business.

(5) "Board" means the board of environmental review provided for in 2-15-3502.

(6) (a) "Commercial hazardous waste incinerator" means:

(i) an incinerator that burns hazardous waste; or

(ii) a boiler or industrial furnace subject to the provisions of 75-10-406.

(b) Commercial hazardous waste incinerator does not include a research and development facility that receives federal or state research funds and that burns hazardous waste primarily to test and evaluate waste treatment remediation technologies.

(7) "Department" means the department of environmental quality provided for in 2-15-3501.

1 (8) "Emission" means a release into the outdoor atmosphere of air contaminants.

2 (9) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant
3 to Title 75, chapter 2, 5, 10, or 11.

4 (10) "Hazardous waste" means:

5 (a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department
6 administrative rules adopted pursuant to Title 75, chapter 10, part 4; or

7 (b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).

8 (11) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible
9 material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of
10 removal, destruction, disposal, or volume reduction of any portion of the input material.

11 (b) Incinerator does not include:

12 (i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as
13 refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;

14 (ii) space heaters that burn used oil;

15 (iii) wood-fired boilers; or

16 (iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.

17 (12) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of
18 human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals.

19 The term includes:

20 (a) cultures and stocks of infectious agents;

21 (b) human pathological wastes;

22 (c) waste human blood or products of human blood;

23 (d) sharps;

24 (e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed
25 to infectious agents during research;

26 (f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and

27 (g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions
28 from humans or animals.

29 (13) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:

30 (i) equipment associated with the well and used for the purpose of producing, treating, separating, or

1 storing oil, natural gas, or other liquids produced by the well; and

2 (ii) a group of wells under common ownership or control that produce oil or natural gas and that share
3 common equipment used for the purpose of producing, treating, separating, or storing oil, natural gas, or other
4 liquids produced by the wells.

5 (b) The equipment referred to in subsection (13)(a) includes but is not limited to wellhead assemblies,
6 amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks, and connecting
7 tubing.

8 (c) The term does not include equipment such as compressor engines used for transmission of oil or
9 natural gas.

10 (14) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private
11 corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal
12 government or an agency of the federal government, or any other legal entity and includes persons resident in
13 Canada.

14 (15) "Principal" means a principal of a corporation, including but not limited to a partner, associate, officer,
15 parent corporation, or subsidiary corporation.

16 (16) "Small business stationary source" means a stationary source that:

17 (a) is owned or operated by a person who employs 100 or fewer individuals;

18 (b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;

19 (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C.
20 7661, et seq.;

21 (d) emits less than 50 tons per year of an air pollutant;

22 (e) emits less than a total of 75 tons per year of all air pollutants combined; and

23 (f) is not excluded from this definition under 75-2-108(3).

24 (17) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous
25 wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial
26 wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution
27 control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal
28 droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof;
29 wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt
30 shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or

1 petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

2 (b) Solid waste does not include municipal sewage, industrial wastewater effluents, mining wastes
3 regulated under the mining and reclamation laws administered by the department of environmental quality, or
4 slash and forest debris regulated under laws administered by the department of natural resources and
5 conservation."
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7 **Section 2.** Section 75-2-203, MCA, is amended to read:

8 **"75-2-203. Board to set emission levels.** (1) The board may establish the limitations of the levels,
9 concentrations, or quantities of emissions of various pollutants from any source necessary to prevent, abate, or
10 control air pollution. Except as otherwise provided in or pursuant to this section, ~~such these emission~~ levels,
11 concentrations, or quantities ~~shall be established by the board are controlling; and no emission in excess thereof~~
12 shall be lawful may not be exceeded.

13 (2) In any area where the concentration of air pollution sources or of population or where the nature of
14 the economy or of land and its uses ~~so~~ require, the board may fix more stringent requirements governing the
15 emission of air pollutants than those in effect pursuant to subsection (1) ~~of this section.~~

16 (3) The board shall establish the limitations of the levels, concentrations, or quantities of emissions of
17 carbon dioxide.

18 ~~(3)(4)~~ (4) The board may by rule use any widely recognized measuring system for measuring emission of
19 air contaminants.

20 ~~(4)(5)~~ (5) ~~Should~~ If federal minimum standards of air pollution ~~be~~ are set by federal law, the board may, if
21 necessary in some localities of this state, set more stringent standards by rule."
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23 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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